

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

GEORGIA SOUTHWESTERN  
RAILROAD, INC., a Corporation

Plaintiff,

V.

AMERICUS C. MITCHELL, JR.,

Defendant.

Case No. 2:06-CV-003-TFM

## ORDER

This action is assigned to the undersigned magistrate judge to conduct all proceedings and order entry of judgment by consent of all the parties (Docs. 7-8, filed March 23, 2006) and 28 U.S.C. § 636(c). Upon review of Plaintiff's *Motion in Limine* (Doc. 53, filed May 21, 2007), *Motion in Limine of Defendant Americus C. Mitchell, Jr.* (Doc. 44, filed April 4, 2007), *Supplemental Motion in Limine of Defendant Americus C. Mitchell, Jr.* (Doc. 57, filed May 21, 2007), Defendant's *Objection to Plaintiff's Witness List* (Doc. 47, filed April 17, 2007), and the oral arguments of counsel at the hearing on May 30, 2007, it is, for good cause

**ORDERED**

(1) Defendant's *Objection to Plaintiff's Witness List* (Doc. 47) is **DENIED as moot.**<sup>1</sup>

<sup>1</sup> Plaintiff's counsel stated on the record that the witness at issue, Logan B. Mitchell would not be called to testify.

- (2) *Plaintiff's Motion in Limine* (Doc. 53) is **GRANTED** to the extent evidence concerning the condition of the trestle prior to the fire and of contributory negligence shall not be permitted during the first (liability) phase of the trial.
- (3) *Plaintiff's Motion in Limine* (Doc. 53) is **DENIED** to the extent evidence concerning the condition of the trestle prior to the fire and of contributory negligence shall be permitted during the second (damages) phase of the trial.
- (4) The *Motion in Limine of Defendant Americus C. Mitchell, Jr.* (Doc. 44) is **DENIED as moot** as to the sections 1 and 2.<sup>2</sup>
- (5) The *Motion in Limine of Defendant Americus C. Mitchell, Jr.* (Doc. 44) is **GRANTED** as to sections 3 and 4. All parties and their witnesses are precluded from presenting testimony concerning liability insurance and offers of compromise and/or settlement.
- (6) The *Supplemental Motion in Limine of Defendant Americus C. Mitchell, Jr.* (Doc. 57) is **DENIED**

DONE this 30th day of May, 2007.

/s/Terry F. Moorner  
TERRY F. MOORER  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> Section 1 "Testimony or Any Evidence Concerning Wantonness" and Section 2 "Testimony Concerning Punitive Damages" are rendered moot as Plaintiff's counsel indicated on the record they would be filing the appropriate papers to dismiss those particular claims and the only remaining claim to be addressed would be negligence.